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for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DEFENDANTS LISTED ON EXHIBIT 1
ATTACHED HERETO,

Defendants.

Adv. Pro. Nos. listed on Exhibit 1
Attached Hereto

STIPULATION AND ORDER WITHDRAWING MOTIONS TO DISMISS

WHEREAS, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, filed and served complaints (the “Complaints”) against Defendants listed on Exhibit 1 attached hereto (the “Defendants”);

WHEREAS, Defendants moved this Court to dismiss the Complaints filed against them by the Trustee (the “Motions”);

WHEREAS, this Court directed the Trustee to file one omnibus opposition to all pending Motions filed by Defendants on or before March 10, 2014. This Court further directed all participating Defendants shall reply on or before March 17, 2014. *See* Case Management Order Regarding Certain Pending Motions to Dismiss, *In re Madoff*, Adv. Pro. No. 08-01789 (SMB) (Bankr. S.D.N.Y. Feb. 21, 2014), ECF NO. 5695 (“February 21 Order”);

WHEREAS, this Court directed the Trustee to provide all Defendants with pending Motions with notice and an opportunity to “opt out” of the omnibus briefing process referenced in the February 21 Order in the event that Defendants did not wish to file a reply or otherwise participate in the omnibus briefing process on the Motions;

WHEREAS, the Trustee filed an omnibus opposition on March 10, 2014 with three appendixes: (i) Appendix A identifying all defendants participating in the omnibus briefing process; (ii) Appendix B identifying all defendants that opted out as of March 10, 2014; and (iii) Appendix C identifying which participating Defendants raised each argument addressed in the Trustee’s Opposition. *See* Trustee’s Memorandum of Law in Opposition to Defendants’ Motions to Dismiss, *In re Madoff*, Adv. Pro. No. 08-01789 (SMB) (Bankr. S.D.N.Y. Feb. 21, 2014), ECF No. 5803 (“Trustee’s Opposition”);

WHEREAS, Defendants seek to opt out of the omnibus briefing process.

NOW THEREFORE, the Trustee and the Defendants, each by and through their respective undersigned counsel, hereby stipulate and agree as follows:

1. Defendants withdraw, without prejudice, the Motions as filed in their respective adversary proceedings set forth on Exhibit 1 hereto in order to proceed to mediation as permitted under the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order, *In re Madoff*, Adv. Pro. No. 08-01789 (SMB) (Bankr. S.D.N.Y. Nov. 10, 2010), ECF No. 3141 (“Litigation Procedures Order”), governing the prosecution of BLMIS avoidance actions. Defendants reserve their rights to re-file their Motions in the event that mediation is unsuccessful.

2. The parties agree that the Trustee will file a Notice of Mediation Referral as defined in the Litigation Procedures Order, substantially contemporaneous with the filing of this stipulation.

3. Except as expressly set forth herein, the parties to this stipulation reserve all rights and defenses they may have, and entry into this stipulation shall not impair or otherwise affect such rights and defenses, including without limitation any defenses based on lack of jurisdiction.

4. This stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

Dated as of: March 14, 2014

MORRISON & FOERSTER LLP

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Liquidation of Bernard L. Madoff
Investment Securities LLC and the Estate
of Bernard L. Madoff*

SO ORDERED

/s/ STUART M. BERNSTEIN

HON. STUART M. BERNSTEIN

UNITED STATES BANKRUPTCY JUDGE

Dated: March 19th, 2014

New York, New York

EXHIBIT 1

	Adv. Pro. No.	Case Caption	ECF Nos.	Counsel for Defendant(s)
1.	10-05388	Lilyan Berkowitz	9-11	Morrison & Foerster LLP
2.	10-04475	DPF Investors	13-15	Morrison & Foerster LLP
3.	10-04402	Brierpatch Investments LLC	11-13	Morrison & Foerster LLP
4.	10-04721	George D. Levy Trust	10-12	Morrison & Foerster LLP
5.	10-05057	Joseph Persky Foundation	10-12	Morrison & Foerster LLP